

(f) Any denial, in whole or in part, of any request under this section that is based upon untimeliness will be in writing.

(g) Agency counsel may, in his or her discretion, treat any communication from a respondent, a permit holder, or vessel owner as a request for a hearing under paragraph (e) of this section.

§904.103 Hearing and administrative review.

(a) Any hearing request under §904.102(e) is governed by the hearing and review procedures set forth in subpart C.

(b) In any hearing held in response to a request under §904.102(e), the Administrative Law Judge (Judge) will render an initial decision. Any party to the hearing may seek the Administrator's review of the Judge's initial decision, subject to the provisions of subpart C.

§904.104 Final administrative decision.

(a) If no request for hearing is timely filed as provided in §904.102(e), the NOVA becomes effective as the final administrative decision and order of NOAA on the 30th day after service of the NOVA or on the last day of any delay period granted.

(b) If a request for hearing is timely filed in accordance with §904.102(e), the date of the final administrative decision is as provided in subpart C.

§904.105 Payment of final assessment.

(a) Respondent must make full payment of the civil penalty assessed within 30 days of the date upon which the assessment becomes effective as the final administrative decision and order of NOAA under §904.104 or subpart C. Payment must be made by mailing or delivering to NOAA at the address specified in the NOVA a check or money order made payable in United States currency in the amount of the assessment to the "Treasurer of the United States," or as otherwise directed.

(b) Upon any failure to pay the civil penalty assessed, NOAA may request the Justice Department to recover the amount assessed in any appropriate district court of the United States, or may act under §904.106.

§904.106 Compromise of civil penalty.

(a) NOAA, in its sole discretion, may compromise, modify, remit, or mitigate, with or without conditions, any civil penalty imposed, or which is subject to imposition, except as stated in paragraph (d) of this section.

(b) The compromise authority of NOAA under this section is in addition to any similar authority provided in any applicable statute or regulation, and may be exercised either upon the initiative of NOAA or in response to a request by the alleged violator or other interested person. Any such request should be sent to Agency counsel at the address specified in the NOVA.

(c) Neither the existence of the compromise authority of NOAA under this section nor NOAA's exercise thereof at any time changes the date upon which an assessment is final or payable.

(d) *Exception.* NOAA will not compromise, modify, or remit a civil penalty imposed, or subject to imposition, under the Deep Seabed Hard Mineral Resources Act while an action to review or recover the penalty is pending in a court of the United States.

§904.107 Joint and several respondents.

(a) A NOVA may assess a civil penalty against two or more respondents jointly and severally. Each respondent is liable for the entire penalty, but no more than the amount finally assessed may be collected from the respondents.

(b) A hearing request by one respondent is considered a request by the other respondents. Agency counsel, having received a hearing request from one respondent, will send a copy of it to the other joint and several respondents in the case.

(c) A decision by the Judge or the Administrator after a hearing requested by one joint and several respondent is binding on all parties and on all other joint and several respondents, whether or not they entered an appearance.

§904.108 Factors considered in assessing penalties.

(a) Factors to be taken into account in assessing a penalty, depending upon the statute in question, may include the nature, circumstances, extent, and